

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: TFT-LCD (FLAT PANEL) ANTITRUST LITIGATION No. M 07-1827 SI

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This Order Relates to:

Motorola, Inc. v. AU Optronics Corp. et al.,
C 09-5840 SI

**ORDER RE: DEFENDANTS'
OBJECTION TO SPECIAL MASTER'S
ORDER DENYING MOTION TO
COMPEL DISCOVERY OF SALES
INFORMATION FROM MOTOROLA**

On February 9, 2011, the Court held a hearing on defendants' objection to the Special Master's Order Denying Motion to Compel Discovery of Sales Information from Motorola. (Docket No. 2331). As discussed at the hearing, the Court agrees with the Special Master that the discovery at issue is not relevant to the Sherman Act claims. In addition, based upon Motorola's representation that the state antitrust claims are limited to Motorola's purchases for its own use, the Court agrees with the Special Master that evidence of downstream sales is irrelevant to those claims.

The Court finds, however, that on the breach of contract claims, which may encompass purchases different than those covered by the Sherman Act claims, defendants are entitled to show that Motorola's contract damages may have been reduced by passing on any overcharges through downstream sales. The parties dispute whether Motorola has already provided sufficient discovery on this point, and the Special Master found that the parties did not provide him with any ability to "reach a nuanced decision to allow discovery as to some categories but deny it as to others." Order at 6:3-4. Accordingly, the Court ORDERS the parties to return to the Special Master to address the scope of requested discovery that should be produced.

IT IS SO ORDERED.

Dated: February 10, 2011

Susan Illston